

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05-cv-219-RJC-DSC**

GREGORY B. MORDEN,

Plaintiff,

vs.

US AIRWAYS,

Defendant.

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ORDER

THIS MATTER comes before the Court sua sponte. Plaintiff filed his Complaint on April 29, 2005. (Doc. No. 1). The Court issued an Order on January 9, 2008, staying this matter pending resolution of Defendant's bankruptcy proceedings. (Doc. No. 8). On October 12, 2011, after the resolution of said bankruptcy proceedings, the Court lifted the stay. Pursuant to Federal Rule of Civil Procedure 12(a)(1)(A)(i), Defendant had until November 2, 2011 to file an Answer to Plaintiff's Complaint. On November 8, 2011, the Court warned Defendant that if it did not file an Answer to Plaintiff's Complaint within seven days, it would be in default. See FED. R. CIV. P. 55(a). Defendant filed a Motion to Dismiss on November 14, 2011. (Doc. No. 11). Plaintiff did not respond and on December 2, 2011, the Magistrate Judge issued an Order to Show Cause why this action should not be dismissed for Plaintiff's failure to prosecute it. (Doc. No. 13). Plaintiff had until January 3, 2012 to respond. (Id.). The time has now expired and Plaintiff has failed to respond to the Magistrate Judge's Order.

Federal Rule of Civil Procedure 41(b) provides as follows:


If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule--except one for lack of jurisdiction, improper venue,

or failure to join a party under Rule 19--operates as an adjudication on the merits.

It is Plaintiff's burden to move this case forward, and Plaintiff has failed to do so.

IT IS, THEREFORE, ORDERED that all of Plaintiff's claims against Defendant are **DISMISSED**.

Signed: January 11, 2012


Robert J. Conrad, Jr.
Chief United States District Judge

